IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 6102 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.3856/2007
[CRIME NO.401/2007 OF KAYAMKULAM POLICE STATION]

.....

: PETITIONERS/ACCUSED 1 & 2

1. ABDUL RAHIMAN @ KOCHUMON,
S/O SULAIMAN KUNJU, PUTHANKANDATHIL VEEDU,
FISH MARKET, KAYAMKULAM.

2. BIJU, S/O JALALUDHIN,
PUTHENKANDATHIL, FISH MARKET,
KAYAMKULAM.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS: COMPLAINANT

1. SUB INSPECTOR OF POLICE,
KAYAMKULAM POLICE STATION,
ALAPPUZHA DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6102 of 2007

Dated this the 8th day of October 2007

O R D E R

Second application for anticipatory bail. The petitioners face allegations under Section 394 read with 34 I.P.C. Earlier application for anticipatory bail was dismissed by this court as per order dated 29/6/2007 in B.A.No.3856/2007 with the specific observation that the petitioners must surrender before the learned Magistrate and seek regular bail. The petitioners have not surrendered before the learned Magistrate so far. They have come to this court again with this application for anticipatory bail.

2. The learned Public Prosecutor stoutly opposes the application for anticipatory bail. There is no change in circumstances and the further investigation has only confirmed the complicity of the petitioners. This second application for anticipatory bail may be dismissed, it is prayed.

3. In the second application for anticipatory bail, it is obligatory that the petitioners must show change in circumstances to justify this court entertaining the application for anticipatory bail afresh. What are the change in

circumstances? The learned counsel for the petitioners submits that the owner of the autorickshaw had applied for release of the autorickshaw and the investigating officer has filed a report in that application for return of the autorickshaw.

4. I am unable to reckon these as sufficient change in circumstance at all. The stand taken up by the investigating officer earlier and in the subsequent report are in no way significantly different. The very case of the investigating officer at that time was that the accused persons had run away from the scene and got into an autorickshaw and made good their escape. That autorickshaw was subsequently recovered from the house of one of the accused. I find no change in circumstance for justifying fresh consideration of the application for anticipatory bail.

5. This bail application is in these circumstances dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007